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Commissioner for Patents**REMARKS**

Claims 1-12 and 20-27 are presently pending.

Claims 1 and 3 are currently amended.

Claims 17-19 are canceled.

Claims 20-27 are new. Support for the new claims can be found in the specification as filed. For example, support for the device being used in combination with shower walls, bathtub walls and tile-covered surfaces can be found in paragraphs [0028] and [0029] and Fig. 5, and support for the various materials claimed for the strips can be found in paragraph [0023] of the application as published. No new matter has been added by the present amendment.

In Item 6, the Examiner rejects claims 1-12 under 35 U.S.C. 102(b) as being anticipated by Tucker (U.S. Patent No. 5,045,374). Reconsideration is respectfully requested on the following grounds.

Tucker discloses a plastic strip to provide reinforcement for longitudinal edges at which interior drywall surfaces meet (abstract). As disclosed by Tucker, drywall is formed of sheets of plaster which are sheathed in an outer wrapping of heavy construction paper (see col. 1, lines 17-19). When drywall is used, plaster is applied over the joints and edges and the drywall is painted or otherwise covered with a suitable covering (col. 1, lines 37-39) to form a finished wall. It is well known that when drywall is exposed to water, the heavy paper will tend to absorb it. As such, drywall cannot be said to form a waterproof surface, i.e., a surface unaffected by water. Accordingly, it is well known in the art that, for a wall extending in an environment exposed to humidity, a suitable covering must be applied over a specially selected type of drywall, the covering being, for example, waterproof paint, tiles, etc. Thus, Tucker does not disclose the use of a strip adhered to waterproof surfaces, bathtub surfaces, tile walls, bathroom floors, bathroom walls and shower walls.

Tucker does not disclose the use of a caulking compound at the joint between the drywall surfaces covered by the strip.

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In addition, there is no indication in Tucker that the strip is adhered to the drywall surfaces in a watertight manner. Tucker discloses the use of paper drywall tape strips 28,30 overlapping the flanges 16,18 of the strip (Fig. 2; col. 6, lines 22-25). Paste-like plastering mud is then used to cover and saturate the tape strips (col. 6, lines 32-34), forming a barrier between the flanges 16,18 and the exterior environment. In addition, and as mentioned above, a further suitable covering (col. 1, lines 37-39) is then applied over the drywall, including the strips, to form a finished wall. Adhesive is not inherently watertight. The fact that multiple barriers (tape, plaster, wall covering) extend between the strip and the environment points away from the need to have a watertight bond between the flanges 16,18 and the drywall, which by itself is not a material adapted to be subjected to a humid environment, as explained above.

In response to the examiner's arguments in Item 8, the Applicant would like to point out that it is well known that a suitable wall covering, such as for example tiles, is required to form a bathroom wall, and a suitable joint, such as for example a caulking joint, is required between adjacent surfaces of this wall covering, such as to prevent the underlying surface (e.g., drywall) and joint therebetween (e.g., tape or strip such as disclosed by Tucker) to be exposed to water. Such preventive measures would not be required if the underlying surfaces and joints were watertight or waterproof.

Therefore, it is submitted that at least independent claim 1 as presently amended recites structure which is patentably distinct from the prior-art device disclosed by Tucker, and thus that independent claim 1 as presently submitted is both novel and inventive thereover. It is also submitted that, at least in view of their dependence on claim 1, dependent claims 2-12 are also both novel and inventive over Tucker. It is further submitted that, in view of the arguments presented above, new claims 20-27 are also both novel and inventive over Tucker.

It should also be noted that Tucker also does not disclose a strip which can be pivoted in a flat configuration where the flaps are aligned, as set forth in claims 3 and 22 of the present invention.

In item 7, the Examiner rejected claims 17-19 under 35 U.S.C. 102(b) as being anticipated by Zellinger (U.S. Patent No. 4,837,997). As these claims are cancelled, this rejection is now moot.

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In view of the above amendments and remarks, this application is believed to be in condition for allowance, and early notice to that effect is earnestly solicited.

Respectfully submitted,

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(Date)

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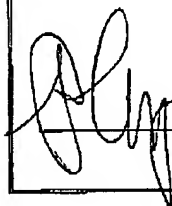
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